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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/003,003	01/05/1998	MICHAEL J. II DIETZ	017096-00021	8468

7590 01/02/2002

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EXAMINER

WHITE, CARMEN D

ART UNIT	PAPER NUMBER
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3713

17

DATE MAILED: 01/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/003,003

Applicant(s)

DIETZ, MICHAEL J. II

Examiner

Carmen D. White

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

## DETAILED ACTION

### RCE

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 10, 2001 has been entered.

### Abstract

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the **range of 50 to 150 words**. ***It is important that the abstract not exceed 150 words in length*** since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

### Claim Objections

Claims 15 and 16 depend from canceled claim 14. ***Correction is required.***

### Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13, 15-17, 31, 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dabrowski et al in view of Manship et al.

Regarding claim 1, Dabrowski et al discloses a video poker electronic gaming system that includes having a plurality of symbols arrayed in multiple columns; selecting initial card symbols to be arrayed; displaying the initial card symbols selected in an array on the monitor; designating chosen symbols, from none to all, for replacement; selecting replacement card symbols; replacing the initial card symbols on the monitor with replacement symbols; and determining whether the replacement symbols and any remaining initial symbols constitute a winning combination and rewarding a winning combination (Fig. 1; col. 5, lines 18-28). Dabrowski et al lacks disclosing the card symbols being arrayed in multiple rows. However, in an analogous video gaming machine, Manship et al discloses the arraying of symbols in multiple rows and columns and in separate boxes (Fig. 1). It would have been obvious to a person of ordinary skill in the art to arrange the card symbols of the two draw poker card hands of Dabrowski et al in multiple columns and rows, as taught by Manship et al, as a matter of design choice. It is well known in video slot machines to arrange symbols in multiple columns and rows to increase the player's chances of obtaining winning combinations.

Regarding claims 31, 33 and 35, Dabrowski in view of Manship discloses all the limitations of the claims as discussed above. In regards to the feature of assessing a winning combination based on the horizontal, vertical or diagonal alignment of the symbols, this is an indigenous, well-known feature of slot machines. Thus, this feature is incorporated in the prior art slot machine of Manship.

Regarding claims 2-9 and 11-13 and 15-17, Dabrowski et al in view of Manship et al disclose all the limitations of the claims as discussed above. Dabrowski further

discloses a draw poker gaming system that includes allowing the player to replace card symbols to be replaced by other random card symbols from a stored plurality of card symbols (deck of card symbols). The player has the option to draw and discard card symbols until the player is satisfied with the final group of card symbols (final hand). These are common features of a draw poker gaming system.

Regarding claim 10, Dabrowski et al in view of Manship et al disclose all the limitations of the claims as discussed above. Manship et al further teaches the evaluation of symbols across one or more columns to determine winning combination of symbols (col. 5, lines 13-28 and Fig. 2).

Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dabrowski et al in view of Manship or Bennett (6,056,642).

Regarding claims 18 and 19, Dabrowski et al in view of Manship et al or Bennett disclose all the limitations of the claims as discussed above. Dabrowski et al lacks disclosing the feature of allowing the player to select background colors and replace background colors of symbols. However, Manship or Bennet teaches that slot machine play can be enhanced by changing background colors of symbols. Manship discloses the changing of background colors of the symbols in order to increase the video slot machine's appeal to the player. Bennett also discloses the changing of the background of symbols to increase the payout value of the combination of winning symbols (abstract). It would have been obvious to a person of ordinary skill in the art to incorporate the changing of symbol background color as taught by Manship et al or Bennett in the system of Dabrowski et al in order to enhance the symbol replacement

system of Dabrowski et al to further allow the player to increase winning combination outcomes.

Claims 20-30, 32, 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dabrowski et al or Heidel et al (5,342,047) in view of Manship et al.

Regarding claims 20-23, 25, 29-30, 32, 34 and 36, Dabrowski et al or Heidel et al discloses an electronic gaming apparatus that includes a monitor for displaying a plurality of symbols arrayed in multiple columns; a memory that stores a list of possible symbols (deck of card symbols); a microprocessor to select symbols from the memory for display on the monitor to determine whether a final group of displayed symbols creates a winning or losing game; a first button to initiate game play and a second button to allow the player to choose replacement symbols from none to all of the initial card symbols and have the microprocessor randomly select replacement card symbols from a list of possible card symbols stored in memory and display the replacement card symbols together with any remaining initial card symbols to create a final group of symbols (hand of cards) [Dabrowski et al- Fig. 1, #62; #60; col. 5, lines 17-28; Heidel et al- Fig. 1; col. 2, lines 51-66)]. Heidel further discloses an embodiment where the video gaming machine can be used to display symbols in multiple rows and columns (Fig. 2a). Dabrowski et al lacks disclosing the card symbols arranged in multiple rows. Manship et al discloses this feature (see above claim rejection for explanation and motivation).

Regarding claims 24 and 26, Dabrowski et al or Heidel et al in view of Manship et al discloses all the limitations of the claims as discussed above. Manship et al further discloses the symbols having the appearance of reels of a slot machine (Fig. 2). Heidel

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also discloses the display of symbols with the appearance of reels on a slot machine (Fig. 2a).

Regarding claims 27-28, Dabrowski et al or Heidel et al in view of Manship et al discloses all the limitations of the claims as discussed above. Heidel et al further discloses the use of a touch screen controls (abstract; Fig. 1)

***Examiner's Response to Applicant's Remarks***

The bulk of applicant's arguments were addressed in the previous Final office action. Applicant has amended the claims 1-30 to include the separate box feature in an attempt to overcome the prior art rejection over Dabrowski (draw poker slot machine) and Manship (a slot machine- multiple symbol columns and rows) and also to claim more closely to applicant's Dietz patent. However, applicant persists in using the claim language ***none to*** all regarding the replacement of symbols. This could be interpreted as not allowing any symbol replacement. Thus the feature, which Applicant relies so heavily upon for patentability (the re-spin and replacement of a symbol in one of the separate boxes of the multiple symbol columns and rows) does not always have to be done, according to the current claim language. Applicant's claims recite features that are commonly found in prior art slot machines. However, the novel feature is that prior art slot machines do not have single symbol re-spin and replacement features. The examiner agrees with this assertion. However, as the claim language is currently written, this feature is not adequately claimed in order to overcome the prior art combination. The examiner suggests incorporating claim language regarding the "respin of symbols that are in the separate boxes" in all of the independent claims. The

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***USPTO Contact Information***




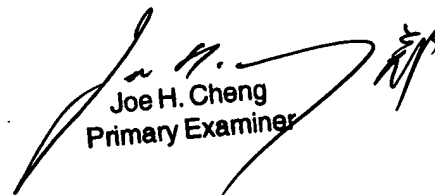
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carmen D. White whose telephone number is 703-308-5275. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7768 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.

  
Carmen White  
Patent Examiner

  
Joe H. Cheng  
Primary Examiner

Attachment for PTO-948 (Rev. 03/01, or earlier)  
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.